IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6491 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MEGHJIBHAI LAKHMANBHAI PARMAR

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 6491 of 2004

MR ASIT B JOSHI for Petitioner No. 1

MR LB DABHI A.G.P. for Respondent No. 1

RULE SERVED for Respondent No. 1,3-4-2

MR DK MEHTA for MR PV HATHI for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 21/12/2004

ORAL JUDGEMENT

1. The petitioner has by way of this petition

challenged the impugned order dated 14th May, 2004 passed by respondent no. 1.

2. On going through the record, it appears that by draft amendment, the petitioner has produced certain documents on record. Moreover, by order dated 7th December, 2004, the respondent has raised contention that some of the documents were not produced before the lower authorities. Thus, in view of that, Mr. Hathi requested that the matter may be remanded to the District Development Officer for fresh decision. After hearing the learned advocates, prima facie it appears that some of the documents were not produced before the lower authorities. Therefore, in my opinion, at this stage it is not proper for this Court to give any opinion, since some documents were not produced before the lower Court.

3. Looking to the peculiar facts and circumstances of the case, a consensus has been arrived at between the parties on the basis of which the impugned orders are required to be quashed and the matter is remanded to respondent no.2 for fresh decision.

4. In view of the above, the petition is partly allowed. The impugned order dated 14th May, 2004 passed by respondent no. 1 at annexure-A and order dated 25th February, 2002 passed by respondent no. 2 are quashed and set aside.

4.1. The matter is remanded to District Development Officer respondent no. 2 herein, for reconsidering the Appeal preferred by the present petitioner being Appeal No. 17/2004. Respondent no. 2 is directed to reconsider the matter afresh, after considering the documents which are sought to be relied upon by the petitioner. However, it is directed that the petitioner shall produce all the documents by making appropriate application within a period of ten days from today and if such an application along with the documents is made, respondent no. 2 shall consider the same in accordance with law, without being influenced by the earlier orders which are quashed in the present petition, as well as the present order, since the same is passed without entering into the merits of the case. It is made clear that this Court has not examined the matter on merits in view of the fact that any observation of this Court may prejudice either side.

5. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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